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**SENATE BILL 841**

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

**INTRODUCED BY**

**Leonard Lee Rawson**

**AN ACT**

**RELATING TO FIREWORKS; GIVING MUNICIPALITIES AND COUNTIES  
GREATER AUTHORITY TO REGULATE OR PROHIBIT FIREWORKS OR TO BAN  
OR LIMIT FIREWORKS IN EXTREME OR SEVERE DROUGHT; AMENDING  
SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

**Section 1. Section 60-2C-7 NMSA 1978 (being Laws 1989,  
Chapter 346, Section 7, as amended) is amended to read:**

**"60-2C-7. PERMISSIBLE FIREWORKS. --**

**A. Permissible fireworks are:**

**(1) ground and hand-held sparkling and smoke  
devices:**

**(a) cone fountains;**

**(b) crackling devices;**

**(c) cylindrical fountains;**

underscored material = new  
[bracketed material] = delete

- 1 (d) flitter sparklers;
- 2 (e) ground spinners;
- 3 (f) illuminating torches;
- 4 (g) toy smoke devices; and
- 5 (h) wheels;
- 6 (2) aerial devices:
  - 7 (a) aerial spinners;
  - 8 (b) helicopters;
  - 9 (c) mines;
  - 10 (d) missile-type rockets; [and]
  - 11 (e) roman candles;
  - 12 (f) shells; and
  - 13 (g) stick-type rockets, except as

14 provided in Subsection B of this section; and

- 15 (3) ground audible devices:
  - 16 (a) chasers; and
  - 17 (b) firecrackers.

18 B. Stick-type rockets having a tube less than a  
19 one-quarter-inch inside diameter are not permissible fireworks.

20 C. A municipality or county [~~shall not~~] may by  
21 ordinance regulate [~~and~~] permissible fireworks more strictly  
22 than the Fireworks Licensing and Safety Act or prohibit the  
23 sale or use of [any permissible firework except aerial devices  
24 and ground audible devices] permissible fireworks."

25 Section 2. Section 60-2C-8.1 NMSA 1978 (being Laws 1997,

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1 Chapter 17, Section 9, as amended) is amended to read:

2 "60-2C-8.1. EXTREME OR SEVERE DROUGHT CONDITIONS--  
3 RESTRICTED SALE AND USE. --

4 A. The governing body of a municipality may hold a  
5 hearing to determine if fireworks restrictions should be  
6 imposed within the boundaries of the incorporated municipality  
7 affected by extreme or severe drought conditions. The findings  
8 of the governing body shall be based on current drought indices  
9 published by the national weather service and any other  
10 relevant information supplied by the United States forest  
11 service.

12 B. Pursuant to any hearing under Subsection A of  
13 this section, the governing body of a municipality shall issue  
14 a proclamation declaring extreme or severe drought conditions  
15 within the boundaries of the incorporated municipality if the  
16 governing body determines [~~such~~] that those conditions exist.  
17 The governing body's proclamation shall:

18 (1) [~~shall~~] ban all fireworks or limit the  
19 sale and use of [~~missile-type rockets, helicopters, aerial~~  
20 ~~spinners, stick-type rockets and ground audible devices within~~  
21 ~~the affected drought area; and~~

22 (2) ~~shall give the governing body the power~~  
23 ~~to:~~

24 (a) ~~limit the use within its~~  
25 ~~jurisdiction of any fireworks not listed in Paragraph (1) of~~

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1 ~~this subsection~~ fireworks to areas that are paved or barren or  
2 that have a readily accessible source of water for use by ~~the~~  
3 a homeowner, ~~or~~ the general public or an entity firing  
4 display fireworks; and

5 ~~(b)~~ (2) ban the use of all fireworks within  
6 wildlands in its jurisdiction, after consultation with the  
7 state forester ~~and~~

8 ~~(c) ban or restrict the sale or use of~~  
9 ~~display fireworks~~].

10 C. The municipal governing body's proclamation  
11 declaring an extreme or severe drought condition shall be  
12 issued no less than twenty days prior to a holiday for which  
13 fireworks may be sold. The proclamation shall explain the ban  
14 or restrictions on the sale or use of fireworks and permitted  
15 sales or uses of fireworks.

16 D. A municipal governing body's proclamation shall  
17 be effective for thirty days and the governing body may issue  
18 succeeding proclamations if extreme or severe drought  
19 conditions warrant. A proclamation may be modified or  
20 rescinded within its thirty-day period by the governing body  
21 upon conducting an emergency hearing to determine if weather  
22 conditions have improved.

23 E. The governing body of a county may hold a  
24 hearing to determine if fireworks restrictions should be  
25 imposed within the unincorporated portions of the county

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1 affected by extreme or severe drought conditions. The findings  
2 of the governing body shall be based on current drought indices  
3 published by the national weather service and any other  
4 relevant information supplied by the United States forest  
5 service.

6 F. Pursuant to any hearing under Subsection E of  
7 this section, the governing body of a county shall issue a  
8 proclamation declaring extreme or severe drought conditions  
9 within the unincorporated portions of the county if the  
10 governing body determines [~~such~~] that those conditions exist.  
11 The governing body's proclamation shall:

12 (1) [~~shall~~] ban all fireworks or limit the  
13 sale and use of [~~missile-type rockets, helicopters, aerial~~  
14 ~~spinners, stick-type rockets and ground audible devices within~~  
15 ~~the affected drought area; and~~

16 (2) ~~shall give the governing body the power~~  
17 ~~to:~~

18 (a) ~~limit the use within its~~  
19 ~~jurisdiction of any fireworks not listed in Paragraph (1) of~~  
20 ~~this subsection]~~ fireworks to areas that are paved or barren or  
21 that have a readily accessible source of water for use by [~~the~~  
22 a homeowner, [or] the general public or an entity firing  
23 display fireworks; and

24 [~~(b)~~] (2) ban the use of all fireworks within  
25 wildlands in its jurisdiction, after consultation with the

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1 state forester ~~and~~

2 ~~(c) ban or restrict the sale or use of~~  
3 ~~display fireworks].~~

4 G. The county governing body's proclamation  
5 declaring an extreme or severe drought condition shall be  
6 issued no less than twenty days prior to a holiday for which  
7 fireworks may be sold. The proclamation shall explain the ban  
8 or restrictions on the sale or use of fireworks and permitted  
9 sales or uses of fireworks.

10 H. Except as otherwise provided in this subsection,  
11 a proclamation shall be effective for thirty days, and the  
12 county governing body may issue succeeding proclamations if  
13 extreme or severe drought conditions warrant. A proclamation  
14 may be modified or rescinded within its thirty-day period by  
15 the governing body upon conducting an emergency hearing to  
16 determine if weather conditions have improved. "

17 Section 3. EMERGENCY.--It is necessary for the public  
18 peace, health and safety that this act take effect immediately.

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